

[Parties and Counsel Listed on Signature Pages]

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

IN RE: SOCIAL MEDIA ADOLESCENT
ADDICTION/PERSONAL INJURY PRODUCTS
LIABILITY LITIGATION

This Document Relates To:

ALL ACTIONS

MDL No. 3047

Case No. 4:22-md-03047-YGR (PHK)

**JOINT STATUS REPORT ON FORENSIC
IMAGING AND DEVICE DATA**

Judge: Hon. Yvonne Gonzalez Rogers

Magistrate Judge: Hon. Peter H. Kang

Pursuant to Discovery Management Orders No. 8 and 9 (“DMO No. 8” and “DMO No. 9”), the Parties jointly provide this status report on forensic imaging and device data of Plaintiffs’ devices (hereinafter “Main Devices”)¹ as well as the Parties’ progress in conferring on certain other topics as directed by the Court.

I. Search Terms & Word Searchable Databases

In DMO 9, the Court ordered the Parties “to finalize their agreed upon search terms by no later than August 16, 2024.” In the week following the August 8, 2024 DMC, the Parties continued to meet and confer on Bellwether PI Plaintiffs search terms and have made significant progress on finalizing those terms. On August 16, 2024, the Parties filed a joint Stipulation and Proposed Order requesting a one-week extension to continue their conferrals to further narrow disputes regarding a small number of remaining search terms, which the Court granted. *See* ECF 1072. Consistent with the Court’s guidance, the Parties are endeavoring to reach agreement on all search terms. Should any disputes remain, they will submit letter briefing by August 30, 2024.

II. Forensic Imaging

In DMO 9, the Court ordered: (1) the Parties “work out an agreement regarding an appropriate procedure for dealing with CSAM on devices;” and (2) that Plaintiffs “produce full forensic imaging for the remaining thirty-one devices at issue by no later than **August 30, 2024.**” *Id.* 2:20–23. The Court further ordered that “[s]uch production shall be on a rolling basis with full imaging of a minimum of five

¹ The Parties use the term “Main Devices” to refer to the Court’s definition in DMO 8 of devices from which information will be initially produced: “[A]ll devices (cellphones, tablets, laptops, computers, and the like) which are in each Bellwether PI Plaintiff’s possession, custody, or control and that they have habitually, routinely, or regularly used during the relevant time period to access the Defendants’ platforms.” Order at 8:24–9:25; Hrg. Tr. at 45:19–21.

1 devices due by **August 16, 2024**, a minimum of five additional devices due by **August 23, 2024**, and all
2 remaining devices due by **August 30, 2024**.” *Id.* at 2:23–25.

3 As of the August 8, 2024, Discovery Management Conference the Parties relayed that Plaintiffs
4 completed full file system (“FFS”) images of 10 Main Devices. At the Court’s direction, Plaintiffs agreed
5 to complete the FFS imaging of all Bellwether Plaintiffs’ Main Devices by August 30, 2024.

6 Seven additional FFS images were completed by August 16, 2024. On August 16, 2024, Plaintiffs
7 provided Defendants with an updated table which indicated FFS extractions had been performed on a total
8 of 17 Main Devices.

9 The Parties will confer regarding an agreement to address CSAM produced to Plaintiffs’ counsel
10 by Plaintiffs in the course of the production of forensic imaging data. The JCCP plaintiffs recently
11 proposed a protocol for entry by Judge Kuhl to address CSAM production, and the Parties agree that a
12 substantively similar process for the MDL would be of benefit.

13 **III. Device Identifying Information**

14 In DMO 8, the Court ordered Plaintiffs to produce in chart form certain device and application
15 identifying information. DMO 8 at 5–6. Because the Parties were not aligned on the content of the chart,
16 the Court clarified its intentions in DMO 9 and ordered the Parties to meet and confer by August 16, 2024
17 “regarding what should be included in the chart of missing device identifying information, after which
18 Plaintiffs should begin supplementing the chart of agreed upon information.” DMO 9 at 3:21–23. The
19 chart shall be organized in a sufficient manner such that each device can be readily identified with the
20 corresponding data or files that are produced.” *Id.* at 3:11–13.

21 The Parties met and conferred on August 16, 2024 on the substance of a joint chart. Defendants
22 agreed to omit the columns for “Estimated Routine Usage,” Operating System History,” “Application
23 Version,” “Date Application Installed” and “Date Application Deleted” from Appendix A for now, with
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the understanding Defendants may request that information in the future depending on the device data that Plaintiffs produce.²

As of August 16, Plaintiffs have provided:

- The serial number or ICCID number for 24 devices;
- The IMEI, MEID, or MAC Address for 21 devices³;
- The current operating system for 19 devices; and
- A list of applications on 20 devices.

Defendants provided an updated version of Appendix A to Plaintiffs on August 16, and Plaintiffs provided further responsive information on August 19. Plaintiffs have agreed to substantially complete the agreed upon information in Appendix A by August 30.

IV. Datasets, Relevant Applications, and Production format and logistics

During the July 11 hearing, Plaintiffs represented that they would produce relevant information from various data sources on Main Devices. Hrg. Tr. at 26:4–21, 34:15–21; *see also* Order at 6:6-12. In DMO 9, the Court ordered Plaintiffs to “produce full forensic imaging for the remaining thirty-one devices at issue by no later than August 30, 2024,” with other interim rolling production deadlines. DMO 9 at 2:21-27 21*Id.* 2:20–25.

Plaintiffs provided a list of all applications on the Main Devices in Appendix A. Plaintiffs are currently working with their forensics vendor to identify the best way to compile various app usage data points from these device images in an effort to assist in identification of relevant applications in discussions with Defendants.

The Parties intend to schedule a meet and confer between their ESI vendors following Plaintiffs’ production of a substantially complete Appendix A.

² Defendants request that Appendix A include the date on which forensic imaging was performed, so that Defendants’ experts can understand the scope of the data to be inspected from the device. The Parties will continue conferring on this point, and Defendants will address the issue with the Court at the next DMC, if resolution is not reached prior to the conference.

³ Devices that connect only via Wi-Fi and do not have cellular capabilities do not need an IMEI or MEID. This includes many laptops, tablets, and some e-readers. Plaintiffs have provided other Device Identifying information (like MAC addresses and Serial Numbers) for these Wi-Fi only Main Devices.

Defendants' Additional Statement:

In DMO 9, the Court ordered Plaintiffs to “produce full forensic imaging for the remaining thirty-one devices at issue by no later than August 30, 2024,” with other interim rolling production deadlines. DMO 9 at 2:21-27. The Court notes that “Any devices which are not fully imaged by August 30, 2024 may, in the Court’s discretion, be subject to a motion for reconsideration regarding inspection of the devices by Defendants and their experts.” *Id.*

Plaintiffs' Additional Statement:

To the extent the inclusion of the quote above from DMO 9 is being interpreted by Defendants to mean that the Court has now ordered Plaintiffs to begin a rolling production of the entirety of the full file system forensic image for bellwether Plaintiffs’ Main Devices, Plaintiffs believe that interpretation misconstrues the Court’s Order and perverts the substance of the Court’s guidance given at the August 8th hearing which required Plaintiffs to have devices “fully imaged” and “in the pipeline for searches and production by [August 30th].” Hrg. Tr. at 18:16-24. Plaintiffs have agreed to adhere to the Court’s deadline to complete the full file system extractions on all Main Devices by month’s end, and is awaiting an opportunity to confer with defendants on the scope of relevant production and the applicable format of production for the certain datasets, as the Court has ordered.

VII. Supplemental Status Reports

The Parties will provide a Supplemental Status Report to the Court on Monday, August 26, 2024.

Respectfully submitted,

DATED: August 19, 2024

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ATTESTATION

I, Andrea R. Pierson hereby attest, pursuant to N.D. Cal. Civil L.R. 5-1, that the concurrence to the filing of this document has been obtained from each signatory hereto.

Dated: August 19, 2024

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